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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MICHAEL STEVEN NOVAK,

Plaintiff,

v.

JAMES THACHER,

Defendant.

Case No. C08-5711BHS/JKA

REPORT AND
RECOMMENDATION

**NOTED FOR:
January 9, 2009**

This proposed action has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636 (b) and local Rules MJR 3 and 4. Plaintiff has paid the full filing fee and served the action. He applies for in forma pauperis status solely so he can seek appointment of counsel.

Plaintiff has misread 28 U.S.C. 1915 (e). That section allows for any person to seek counsel without regard to a grant or denial of in forma pauperis status. Thus, plaintiff's motion for in forma pauperis status is moot.

Plaintiff has the paid the three hundred and fifty-dollar filing fee in this case. The district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of

1 indigence. *See* 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an
2 application to proceed in forma pauperis. Weller v. Dickson, 314 F.2d 598 (9th Cir. 1963), *cert.*
3 *denied*, 375 U.S. 845 (1963). Plaintiff has shown the ability to pay the full filing fee.

4 Based on the above, the Court should deny plaintiff's application to proceed *in forma pauperis*.
5 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties
6 shall have ten (10) days from service of this Report to file written objections. *See also* Fed. R. Civ. P.
7 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas
8 v. Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is
9 directed to set the matter for consideration on **January 9, 2009**, as noted in the caption.

10 DATED this 17 day of December, 2008.

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12 /S/ J. Kelley Arnold
13 J. Kelley Arnold
14 United States Magistrate Judge
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